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COUNTY OF PASQUOTANK

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August 2, 2019

Senator Andy Wells ([Andy.Wells@ncleg.net](mailto:Andy.Wells@ncleg.net))  
Representative James L. Boles, Jr. ([Jamie.Boles@ncleg.net](mailto:Jamie.Boles@ncleg.net))  
Representative Ted Davis, Jr. ([Ted.Davis@ncleg.net](mailto:Ted.Davis@ncleg.net))

Via Email

Dear Senator Wells, Representative Boles and Representative Davis:

I am attaching Pasquotank County's report required under S.L. 2018-69, Section 3. I have been the Pasquotank County Attorney for nearly 17 years. In my time as county attorney criminal penalties are rarely sought for the enforcement of a county ordinance. Other than the county leash law, I have probably been involved in less than five (5) situations in my career where criminal sanctions were sought for a violation of a county ordinance. That being said, I do not think criminal penalties are abused and I believe the penalties should remain a tool of local governments. Without the threat of a criminal penalty some ordinances could be difficult to enforce. I hope you find this information helpful. Please do not hesitate to contact me if you need further information.

With kind regards, I am

Sincerely,

R. Michael Cox  
County Attorney

RMC/mwp

Attachment

cc: Sparty Hammett, County Manager  
Susan Sitze, Attorney at law for the General Assembly

PASQUOTANK COUNTY  
REPORT REQUIRED UNDER S.L. 2018-69, Section 3

Prepared by R. Michael Cox, County Attorney  
August 2, 2019

To: The North Carolina General Assembly Joint Legislative Administrative Procedure  
Oversight Committee and Joint Legislative Oversight Committee on Justice and Public  
Safety

Pursuant to Session Law 2018-69, Section 3, Pasquotank County respectfully submits the following list of ordinances found in the Pasquotank County Code of Ordinances, violation of which may be subject to criminal punishment.

Sec. 10.99 – General penalty.

Any person, firm or corporation violating any of the provisions of any section or division of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days, and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.

Sec. 30.99     *[Pertaining to Emergency Management]*

- (a) Any person violating any provision of this chapter for which no specific penalty is prescribed should be subject to §10.99.
- (b) Any person violating any prohibition or restriction imposed by an emergency proclamation authorized by §30.01 shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$50 or imprisonment not exceeding 30 days, as provided by G.S. §14-4.

Sec. 32.99     *[Pertaining to Smoking]*

A violation of this ordinance shall be an infraction and upon conviction shall be punishable by a fine in the amount of \$50.

Section 50.99 *[Pertaining to Solid Waste]*

- (a) The violation of any provision of this chapter shall be a misdemeanor punishable by a fine not to exceed \$500, or imprisonment for not more than 30 days or both. Each day's violation of this chapter is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this section does not relieve a person of his or her liability for fees or civil penalties imposed under this chapter.



Section 51.999 *[Pertaining to Water, Public Works and Watershed Supply Protection]*

- (a) Any person violating any provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$500 or imprisonment for not more than 30 days. Each day any violation of this chapter continues shall constitute a separate offense.

Section 70.99 *[Pertaining to Parking on County Property]*

- (a) (2) If a person violating §70.01(F) does not pay the penalty prescribed in division (A)(1) above within the specified time, a complaint shall be filed and a warrant of arrest or summons issued for the violation. Upon conviction, the person shall be deemed guilty of a misdemeanor, punishable as prescribed in G.S. §14-4.

Section 90.99 *[Pertaining to Junk and Abandoned Motor Vehicles]*

- (b) The violation of this chapter shall be a misdemeanor and in addition to, or lieu of, remedies authorized in division (A) above shall be punishable by a fine not to exceed \$500, or imprisonment for not more than 30 days.

Section 91.99 *[Pertaining to Dangerous Animals and License Tax for Dogs]*

- (a) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99.
- (b) The violation of *[License Tax Requirements]* shall be a misdemeanor punishable by a fine of not more than \$500, or imprisonment for not more than 30 days.

Section 110.99 *[Pertaining to Pawnbrokers]*

A violation of this chapter shall be punishable as provided by G.S. §66-396.

Section 111.99 *[Pertaining to Automobile Graveyards and Junkyards]*

Any person, firm, corporation or other entity who maintains or operates or who controls the maintenance of a junkyard or automobile graveyard in violation of this chapter shall be guilty of a misdemeanor and subject to prosecution and, if convicted, shall be punished by a fine not to exceed \$50 or by imprisonment not to exceed 30 days, or both, in the discretion of the court. Each day that the automobile graveyard or junkyard shall be maintained or operated in violation of this chapter shall constitute a separate and distinct offense.

Section 113.99 *[Pertaining to Materials Installation]*

Any person, firm, or corporation violating the provisions of this chapter shall be subject to all the applicable punishment, penalties and equitable relief provided for by Chapter 703 of the North Carolina Session Laws of 1977, and G.S. §153A-123.

Section 114.99 [*Pertaining to Peddlers and Solicitors*]

A violation of [*the Peddlers and Solicitors Ordinance*] shall be punished by a fine of not more than \$500 or by imprisonment for not more than 30 days for each separate violation. Each day any violation of this chapter shall continue shall constitute a separate offense. In addition to the penalties previously stated, a violation of this chapter may be enforced by any one or more of the remedies authorized by G.S. §153A-123.

Section 130.99 [*Pertaining to Unreasonable Noise, Reckless Use of Firearms, Fishing Prohibitions and Tattooing Prohibition*]

- (a) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99.
- (b) (1) Any person who violates any provision of [*Unreasonable Noise provisions*] shall be guilty of a Class 3 misdemeanor punishable by imprisonment not to exceed to days or by fine not less than \$75 and not more than \$500. Each day of a continuing violation shall constitute a separate violation under this section.
- (c) Any person who utilizes a firearm in violation of [*this ordinance*] shall be guilty of a misdemeanor and subject to prosecution and, if convicted, shall be punished by a fine not to exceed \$50 or by imprisonment not to exceed 30 days, or both, in the discretion of the court.
- (d) Any person who violates [*Fishing Prohibitions*] is guilty of a misdemeanor and, upon conviction, may be imprisoned for not more than 30 days for each separate violation, fined not more than \$50, or both.

Section 151.99 [*Pertaining to Building Regulations and Housing Codes*]

- (a) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99.
- (b) (2) The violation of any provision of this chapter shall constitute a misdemeanor, as provided by G.S. §14-4.
- (c) (2) *Criminal penalties.* Any person who knowingly or willfully violates [*the Housing Code*] or who knowingly or willfully initiates or continues construction of a multi-family development except in accordance with the terms, conditions and provision of an approved plan, shall be guilty of a misdemeanor punishable by imprisonment not to exceed 90 days or by a fine not to exceed \$5,000, or by both, in the discretion of the court.



Section 152.999 *[Pertaining to Flood Damage Prevention]*

- (a) Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor punishable by a maximum fine in the amount of \$75 or a maximum 30 days imprisonment as provided by G.S. §14-4.

Section 153.99 *[Pertaining to Coastal Management]*

Any person adjudged guilty of knowingly and willfully undertaking any development requiring a minor development permit without acquiring a permit, or of conduct exceeding the authority of a permit granted, or of failure to observe the agreed modifications of a conditioned grant, or of violation of any other applicable regulations adopted by the county or the Commission pursuant to the CAMA, the Coastal Area Management Act, being G.S. §§113A-100 et seq., shall be guilty of a misdemeanor [.]

Section 155.999 *[Pertaining to Subdivision Regulations]*

- (a) After the effective date of this chapter, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this chapter, thereafter subdivides his or her land in violation of this chapter or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land, before the plat has been properly approved under the terms of this chapter and recorded in the office of the County Register of Deeds, shall be guilty of a misdemeanor.
- (b) The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The county, through its attorney or other official designated by the County Board of Commissioners, may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this chapter shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. §14-4.

Section 156.999 *[Pertaining to Airport Zoning]*

Each violation of this chapter or of any regulation, order or ruling promulgated hereunder shall constitute a Class 3 misdemeanor and each day a violation continues to exist shall constitute a separate offense.

Section 157.999 *[Pertaining to Zoning]*

- (a) Violations of the provisions of this chapter or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use permits, shall constitute a misdemeanor punishable by a maximum fine in the amount of \$75 or a maximum 30 days imprisonment as provided by G.S. §14-4.

**Other Ordinances with Criminal Penalties not within the Code of Ordinance**

*[Pertaining to Sexually Oriented Businesses]*

Any person who violates any provision of this article shall be guilty of a misdemeanor as provided in North Carolina General Statute §14-4 and, upon conviction, shall be subject to a maximum fine of \$500, or imprisonment, or both. Each violation shall be considered a separate and distinct offense, and each day of continued violation shall be considered as a separate offense the issuance of a notice of violation or a suspension or revocation of a sexually oriented business license shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the issuance of a notice of violation or a suspension or revocation of the license.

*[Pertaining to the Abatement of Overgrown Lots within Subdivisions]*

The procedure set forth in this ordinance shall be in addition to any other remedies that may now or hereinafter exist under law for the abatement of public nuisances and this ordinance shall not prevent the county from proceedings in a criminal action against any person, firm or corporation violating the provisions of this ordinance as provided in G.S. §14-4.


*[Pertaining to Discharge of Firearm near a School, Church, Playground, Daycare, Park; to Endanger any person; or resulting in unlawful property damage or bodily injury]*

Any person violating any provision of this part shall be guilty of a misdemeanor and subject to a fine of not more than \$500 and/or imprisonment for not more than 30 days. Violators may be subject to a civil penalty of \$500 per violation to be recovered in the nature of debt if not paid within 30 days.

*[Pertaining to Leash Law within Subdivisions]*

Violation of any provision of this section shall be a misdemeanor punishable by a fine not to exceed \$500, or imprisonment for not more than 30 days, or both. Each day's violation of this article is a separate offense.

Prepared By:

  
R. Michael Cox, County Attorney

Date:

August 2, 2019